

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

ALONZO SMITH,	)	Case No. 16 C 3404
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
JON BURGE, et al.,	)	Chicago, Illinois
	)	
Defendants.	)	May 22, 2025
	)	
	)	9:33 a.m.

TRANSCRIPT OF PROCEEDINGS - STATUS  
BEFORE THE HONORABLE VIRGINIA M. KENDALL

11 || APPEARANCES:

12 For the Intervenor: LOEVY & LOEVY  
13 BY: MS. SHELLEY GEISZLER  
311 N. Aberdeen Street, 3rd Floor  
Chicago, Illinois 60607

15 For the Respondent: BURNS NOLAND LLP  
16 BY: MR. TERENCE M. BURNS  
17 MR. PAUL A. MICHALIK  
311 S. Wacker Drive, Suite 5200  
Chicago, Illinois 60606

18 Court Reporter: GAYLE A. McGUIGAN, CSR, RMR, CRR  
19 Official Court Reporter  
20 219 S. Dearborn Street, Room 2524A  
Chicago, Illinois 60604  
312.435.6047  
21 gayle\_mcguigan@ilnd.uscourts.gov

\* \* \* \*

PROCEEDINGS REPORTED BY STENOTYPE  
TRANSCRIPT PRODUCED USING COMPUTER-AIDED TRANSCRIPTION

1 (Proceedings heard in open court:)

2 THE CLERK: Now calling case number 16 Civil 3404,  
3 Smith versus Burge.

4 THE COURT: Good morning.

5 MS. GEISZLER: Good morning, your Honor. Shelley  
6 Geiszler for intervenor, Bob Hercules.

7 THE COURT: Good morning.

8 MR. BURNS: Good morning, your Honor. Terry Burns  
9 appearing on behalf of Mr. Daley.

10 MR. MICHALIK: Paul Michalik also on behalf of  
11 Mr. Daley.

12 THE COURT: Good morning.

13 So now that I've got more fulsome briefing and I have  
14 a transcript, I guess I have questions.

15 So let me ask you, is the whole point of getting the  
16 deposition -- you want the video deposition? Is that what you  
17 want?

18 MS. GEISZLER: Yes, your Honor.

19 THE COURT: And the idea there is if you were to  
20 disclose the video deposition, it would show his medical  
21 condition? That's what your position is?

22 Isn't it open and public about what the medical  
23 condition was at the time?

24 MR. BURNS: If I may?

25 THE COURT: Yes.

1                   MR. BURNS: To some limited extent. You saw what  
2 Judge Dow did decide to release when he was reviewing this.

3                   THE COURT: Yes.

4                   MR. BURNS: And there's very limited information.  
5 There's so much more, as I know the Court is aware of,  
6 extensive information that was provided to her Honor,  
7 Judge St. Eve, medical records, reports, testimony, hearings on  
8 it. There's so much more than simply --

9                   THE COURT: Well, right. I know --

10                  MR. BURNS: -- the snippet that came out.

11                  THE COURT: I understand all that, but that doesn't  
12 really -- going back to you, if you were to get a portion of  
13 the video deposition and she were to play that, he's not saying  
14 anything about his medical condition, right?

15                  So how does that reveal more -- all of this extensive  
16 medical briefing that you're discussing?

17                  MR. BURNS: I think it does have an impact. It's  
18 difficult to take something out of context.

19                  One of the comments that you may recall from the  
20 briefing that we've seen from the intervenor is this  
21 information can be presented, the public can make a decision.

22                  THE COURT: Right.

23                  MR. BURNS: It would be an impossibility.

24                  When you think of what Judge St. Eve went through, the  
25 time, the effort, the multiple hearings, to suggest we'll

1 release it with some limited information and the public can  
2 decide, that would be an impossibility, your Honor, and I think  
3 the record establishes that. There's so much more to it.

4 That deposition --

5 (Brief audio interruption.)

6 THE COURT: Whoever is on WebEx, please mute yourself.  
7 We're in the courtroom right now.

8 (Pause.)

9 THE COURT: Thank you.

10 MR. BURNS: And I want to be -- obviously, Judge, if  
11 you were to have a hearing on this, the information --

12 (Brief audio interruption.)

13 MR. BURNS: I would hope or at least ask the Court if  
14 we could have in chambers some more information can be  
15 discussed --

16 THE COURT: Oh, absolutely, absolutely.

17 MR. BURNS: Yes, ma'am.

18 THE COURT: That is not a concern of mine.

19 MR. BURNS: Okay. All right.

20 THE COURT: I guess there's one more piece that I'm  
21 going to look at, which is the actual videotape. Can I get a  
22 copy of that?

23 MR. BURNS: That may take -- no one has it, Judge.  
24 Nobody --

25 THE COURT: Oh, where is it?

1                   MR. BURNS: That's back to the original -- it was  
2 videotaped by the videographer, and it was sealed at that time.  
3 It has never been released to anybody. I don't even have it.

4                   THE COURT: Oh, I see. Okay, okay. All right.

5                   I'm sorry, I'm not ready to give you a ruling today.  
6 I got your new briefing, and I will review it and give you a  
7 ruling shortly.

8                   MS. GEISZLER: Understood, your Honor.

9                   If I may, I -- there's also plaintiff's counsel. Our  
10 understanding is that plaintiff's counsel in this case at least  
11 has access to the video deposition or a mechanism for obtaining  
12 it.

13                  THE COURT: How so, if they don't know?

14                  MS. GEISZLER: I'm only bringing this up because of  
15 our argument that plaintiff's counsel is a willing speaker that  
16 we touched on in the briefing and but for the protective order  
17 would disseminate the video.

18                  So I don't know -- this is the first I'm hearing that  
19 nobody has access to the underlying video, so that's -- that's  
20 not my understanding.

21                  THE COURT: Okay. Is that your understanding?

22                  MR. BURNS: We were never given notice of anyone  
23 requesting it. It was sealed, Judge. That's why I don't have  
24 it, and no one else should have it but the videographer.

25                  THE COURT: How would the plaintiff have it?

1                   MR. BURNS: If he requested it or did something, it  
2 wasn't through notice to us. We would have been given some  
3 notice. That's why I maintain my view --

4                   MS. GEISZLER: And I certainly don't want to represent  
5 that's -- that's true. That's just always been my  
6 understanding --

7                   THE COURT: Okay.

8                   MS. GEISZLER: -- of what I, as the intervenor, third  
9 party in the case, without the history that counsel has, you  
10 know, that there was a mechanism for the video to be at least  
11 reviewed by the Court certainly as part of these proceedings.

12                  THE COURT: Can you find out?

13                  MS. GEISZLER: Yes, I think we would be able to find  
14 out.

15                  THE COURT: I mean, I think that is something I would  
16 like to know if that's -- if it's out there, right? So if you  
17 could just file a supplemental statement when you find out,  
18 that would be very helpful.

19                  Thank you.

20                  MS. GEISZLER: Yeah. And this is all just to go  
21 toward the Court having access to it --

22                  THE COURT: Right.

23                  MS. GEISZLER: -- and then being able to review it.

24                  THE COURT: Right. Okay. All right. So I'm not  
25 going to give you something today. I'm not ready. But thank

1 you for the newer insights in the more fulsome briefing. Okay?  
2 I'll rule shortly.

3 MR. MICHALIK: Your Honor, if I could just reiterate a  
4 point Mr. Burns was starting to allude to, if there needs to be  
5 further hearing on this matter --

6 THE COURT: *In camera*.

7 MR. MICHALIK: -- it has to be *in camera*.

8 THE COURT: We understand.

9 MR. MICHALIK: Thank you.

10 MS. GEISZLER: And your Honor, would your Honor be  
11 reviewing the video prior to ruling on this matter?

12 THE COURT: I don't know if it even exists. To them,  
13 it's under seal and they don't have access to it. So I think  
14 they're surprised that there is access --

15 MS. GEISZLER: And I don't want to be representing --

16 THE COURT: Right. So that's why --

17 MS. GEISZLER: -- I know that for certain. I'm just  
18 saying this -- that's been my understanding.

19 THE COURT: I think we should find out if somebody has  
20 access to it, okay? And just let us know, okay?

21 All right. Thanks very much.

22 MULTIPLE SPEAKERS: Thank you.

23 MR. BURNS: Thank you, your Honor. Have a good  
24 weekend.

25 THE COURT: You, too.

1 (Concluded at 9:39 a.m.)

2 \* \* \* \* \*

3 I certify that the foregoing is a correct transcript of the  
4 record of proceedings in the above-entitled matter.

5

6 /s/ GAYLE A. McGUIGAN \_\_\_\_\_  
7 GAYLE A. McGUIGAN, CSR, RMR, CRR  
Official Court Reporter

May 29, 2025

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25